

News Release



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Labor Department Obtains Judgment Ordering Trustee to Restore Money To Illinois 401(k) and Health Plans

ROCKFORD, Ill. -- The U.S. Department of Labor obtained a judgment ordering the trustee of the 401(k) retirement and health plans of Rockford, Ill.-based Lunde Truck Sales Inc. to restore \$26,299 to the plans. Richard B. Lunde, trustee and president of the company, allegedly failed to remit and timely remit employee contributions to the 401(k) plan and forward employee premiums to the health plan's insurance provider. The suit also alleged that Lunde co-mingled the contributions with the company's general assets.

"These actions underscore the department's commitment to hold accountable those who are entrusted with the assets of workers' retirement and health plans," said Kenneth Bazar, director of the Chicago regional office of the Department of Labor's Employee Benefits Security Administration (EBSA), which investigated the case.

The judgment, entered in federal district court in Rockford, Ill., resulted from a lawsuit filed by the department in September 2003 alleging that Lunde failed to remit employee contributions to the 401(k) plan from March 2001 through July 2001 and failed to terminate the plan and distribute the assets to participants after the board of directors voted for termination. He also violated the Employee Retirement Income Security Act (ERISA) by failing to obtain a fidelity bond. The suit also alleged that Lunde failed to forward employee contributions for premiums to the health plan's insurance provider, Blue Cross/Blue Shield of Illinois, from July through August 2001.

The department obtained an order June 9, 2004, appointing an independent fiduciary to distribute the assets of the 401(k) plan to the participants and beneficiaries and terminate the plan. On Aug. 16, 2004, the department obtained a default judgment requiring Lunde to restore the employee contributions and lost opportunity costs to the 401(k) plan, restore employee contributions to the health plan, correct prohibited transactions and offset his 401(k) plan account to cover any money owed to the company's 401(k) plan. As of October 2001, the 401(k) plan had 31 participants and \$908,752 in assets. The health plan, which was cancelled due to the company's failure to pay its premiums to Blue Cross/Blue Shield, had approximately 39 participants plus dependents as of June 2001.

Lunde Truck, established in the 1950s as a family-owned business, was a wholly owned affiliate of LTS Investments Ltd. which was incorporated in November 1976. Lunde Truck sold and serviced Mack trucks and had approximately 55 employees in 1996. The company filed for bankruptcy in 2001 and had its corporate status revoked in 2002.

Employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the program requires employers to correct ERISA violations but allows them to avoid EBSA enforcement actions and civil penalties as well as any applicable excise taxes. For more information about the VFCP, see www.dol.gov/ebsa.

In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can reach the Chicago regional office at 312-353-0900 or through EBSA's toll-free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans.

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(Chao v. Lunde) Civil Action No. 03C 5035

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